

REMARKS

By this amendment, claims 1-14 and 16-35 are pending.

The Office Action mailed December 11, 2006 objected to claims 18 and 19 as being dependent on a rejected base claim, but otherwise allowable, and rejected claims 1-14, 16, 17, 20-22, and 30-34 under 35 U.S.C. § 102 (e) as anticipated by *Erwin et al.* (US H1,802). The Office Action indicated that claims 23-29 are allowed.

The indication by the Examiner of the allowability of claims 23-29 and of the patentable subject matter of claims 18 and 19 is gratefully acknowledged.

At the outset, Applicants note that the Office Action of December 11, 2006 omits any mention of claim 35. This may be due, in part, to an amendment transmittal letter of July 1, 2004, indicating only 8 remaining independent claims, but this transmittal letter indicates no cancellation of independent claim 35. While the claim was omitted from the presentation of claims section of the response of July 1, 2004, that response clearly indicated that independent claim 35 was still pending (see page 11 of that response). Also, the Examiner noted, at least as late as the Office Action of April 1, 2004, that claim 35 was pending. Also, in a “PRINTER RUSH” PTO memo of February 11, 2005, of record, there was an indication that “claims 1-14 and 16-35” (emphasis added) were allowed claims. Since there is no indication in the record of claim 35 being canceled or withdrawn, Applicants maintain that independent claim 35 is still pending and allowable.

With regard to the rejection of claims 1-14, 16, 17, 20-22, and 30-34 under 35 U.S.C. § 102 (e) as anticipated by *Erwin et al.*, Applicants respectfully traverse.

The Examiner indicates that *Erwin et al.* discloses the claimed “programmable switch” at 300 in FIG. 3 of the reference and the claimed “switch controller” at call processor 312 in FIG. 3 of the reference. However, claims 1-17 require a programmable switch and a switch controller

“coupled to said programmable switch.” This is illustrated, for example, in FIG. 1 of the present application where a switch controller, e.g., 112a, is coupled to a programmable switch, e.g., 110a. But, in *Erwin et al.*, if element 300 is the “programmable switch,” call processor 112 is a part of that “programmable switch” and, therefore, cannot be “coupled to said programmable switch,” as claimed. It is awkward, to say the least, and improper, at best, to interpret an element as being “coupled” to itself. Therefore, *Erwin et al.* does not disclose the subject matter of claims 1-17 and the Examiner is respectfully requested to withdraw the rejection of claims 1-17 under 35 U.S.C. § 102 (e).

With regard to independent claim 20 and claims 21 and 22 depending therefrom, the Examiner contends that the call processor 312 of *Erwin et al.* is the claimed “messaging interface,” that telephony support module 304 and interface module 306 of *Erwin et al.* constitute the claimed “means for communicating with a programmable switch using programmable switch interface messages;” and that the claimed means for communicating with an intelligent service network component using transmission control messages is met by the network management server (using intelligent transmission control messages) and the call processing and signaling functions in col. 7, lines 11-48, and FIG. 3 of *Erwin et al.*.

Similar to the argument *supra*, claim 20 calls for “a means for communicating with a programmable switch using programmable switch interface messages.” The Examiner’s rationale for the rejection mentions nothing about what the “programmable switch” is intended to be in *Erwin et al.* However, assuming that the Examiner still identifies element 300 in FIG. 3 of *Erwin et al.* as the claimed “programmable switch,” all of the elements identified by the Examiner as constituting the claimed “means for communicating” reside in “programmable switch” 300 in *Erwin et al.* Therefore, *Erwin et al.* cannot teach or disclose the claimed “means for communicating with a programmable switch using programmable switch interface

messages," because the elements identified by the Examiner as constituting the "means for communicating" in *Erwin et al.* are part of the "programmable switch" 300. Accordingly, the "means for communicating" in *Erwin et al.* cannot be a means for communicating **with** the programmable switch, as claimed, since the identified "means for communicating" are within the "programmable switch" 300 of *Erwin et al.* It would be awkward, to say the least, and improper, at best, to interpret an element as communicating with itself. Therefore, *Erwin et al.* does not disclose the subject matter of claims 20-22 and the Examiner is respectfully requested to withdraw the rejection of claims 20-22 under 35 U.S.C. § 102 (e).

Accordingly, claims 1-14 and 16-35 are patentable over the art of record.

Therefore, the present application, as amended, overcomes the objections and the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

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Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9952
Fax. (703) 519-9958